

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 789 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PATEL LAKHUBHAI UMEDBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR SV RAJU for Petitioner

MR K.C.SHAH, ASSISTANT GOVERNMENT PLEADER for Respondent No. 1

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 20/06/96

ORAL JUDGEMENT

The petitioner has challenged the judgment and order of the Deputy Collector, Palanpur dated 30.8.1983 in case No.22/83 in respect of the disputed land bearing survey number 490/1 admeasuring 1 acre-06 gunthas situated in village Madana (Gadh) of Palanpur taluka which came to be

confirmed in appeal No.3/84 on 18.2.1984 by the Collector, Banaskantha and which also came to be further confirmed in revision under Section 211 of the Bombay Land Revenue Code by the State of Gujarat on 30.7.1984, by filing this petition under Articles 226 and 227 of the Constitution of India.

Respondents Nos. 3 and 4 had been allotted disputed land bearing survey number 490/1 which was originally allotted to one Luhar Devar Raichand by the Government as Inam land. Respondents nos.3 and 4 inherited the disputed land from the original allottee. The disputed land is alleged to be new tenure land. Respondents nos.3 and 4 sold by a registered sale deed dated 9.7.1980 the disputed land in favour of the petitioner. Proceedings came to be started by the respondent-authorities against the petitioner on the ground that prior permission was not taken and there was breach of the terms and conditions of the grant of new tenure land.

The Deputy Collector, Palanpur held that there was breach of terms and conditions of grant of new tenure land to the petitioner without prior permission of the Collector and therefore, the disputed land came to be forfeited. The order of the Deputy Collector came to be confirmed in appeal and revision. Hence, this petition.

The learned advocate for the petitioner has drawn attention of this court to the Government resolution dated 11.6.1968 and another resolution dated 5.8.1968. Copies of these resolutions are produced at Annexures D and E. It appears from the record of the present case that the respondent authorities have failed to appreciate and consider the Government resolutions dated 11.6.1968 and 5.8.1968. There are provisions for regularising transfer of new tenure land in case of service inam land in the State of Gujarat. Since the authorities below have failed to consider the relevant resolutions, serious illegality is committed in passing the impugned orders. Therefore, the impugned orders are required to be quashed and set aside and the matter is required to be remanded to respondent No.1 -State of Gujarat for reconsideration in light of the relevant Government resolutions, for regularisation.

In the result, the impugned orders are quashed and set aside and the matter is remanded to respondent No.1-State of Gujarat for reconsideration as to whether the land could be regularised or not in light of the relevant Government resolutions, as early as possible. Rule is made absolute to the aforesaid extent with no

order as to costs.

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